

# **EXHIBIT A**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

.....x  
ANGEL VARGOS, FELIX BONILLA,  
RYAN MCKENZIE, BERNARDO RAMIREZ AND  
SIMON NORALES,

Plaintiffs,

against-

MIDTOWN AIR CONDITIONING &  
VENTILATION, LTD.,

Defendant.

.....x

2 Penn Plaza  
New York, New York

December 10, 2007  
10:15 A.M.

DEPOSITION of ANGEL VARGOS, one of the  
Plaintiffs, taken by the Defendant, pursuant to Order,  
held at the above-noted time and place, before a Notary  
Public of the State of New York.

\* \* \* \*

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Angel Vargas

27

comments.

Q Have you ever had any physical or  
mental disabilities?

A No.

Q Do you possess any licenses?

A Like what kind of license?

Q Any kind of license?

A A driver's license.

Q Anything else?

A That is about it.

Q Do you belong to any Unions?

A Yes, I do.

Q What Union?

A Local 810.

Q Have you ever belonged to any other  
Unions?

A No.

Q How long have you been a member of  
Local 810?

A Since 1998.

Q Have you ever been suspended from  
Local 810?

A Well, that I don't quite understand.

Q Have you ever failed to pay your dues?

1 Angel Vargas 38

2 That is for sure.

3 And we started working with more  
4 commercial units, rooftop units.

5 In other words, the business expense  
6 to do big jobs.

7 Can I take a break now?

8 MR. CAPOZZOLA: Yes.

9 Off the record.

10 (Whereupon, a brief recess was taken  
11 off the record.)

12 Q When Mr. Brodsky purchased Midtown,  
13 did he hire all the existing employees?

14 A When the old Midtown?

15 Q Yes.

16 A Me. It was another guy, Arcadi and  
17 some other Service Mechanic also.

18 It was, yes, about five of us that  
19 came from there.

20 We was employed with him. Yes.

21 Q Do you recall who the other two were?  
22 You mentioned --

23 A -- Peter and Arcadi.

24 Q Was Peter the Mechanic?

25 A He was the Mechanic.

1 Angel Vargas 59

2 question. But I need to get it on the record.

3 How would you define your race?

4 As Hispanic, as Puerto Rican?

5 MR. WOTORSON: Objection to the form.

6 I would like you to have her read back the  
7 question and you listen to what you said and  
8 maybe you will pick up what I think is a  
9 mistake.

10 But, if not --

11 MR. CAPOZZOLA: Let me ask it again.

12 Q What is your race?

13 A I am an American Puerto Rican.

14 Q Do you consider yourself Hispanic?

15 A Yes.

16 Q Your national origin is Puerto Rico?

17 A I was born in Puerto Rico, yes.

18 Q Do you have an African-American  
19 ancestry?

20 A That I know of, no.

21 Q I guess, I should say, African  
22 ancestry.

23 A No.

24 MR. WOTORSON: Are you sure?

25 THE WITNESS: I'm from Puerto Rico.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Angel Vargas

69

Q You don't remember what project that you were working on right before you were laid off?

A I could be working in his house. I did a lot of work in his house.

And sometimes I would be doing little jobs at Chelsea Recreation Center on 25th Street between 8th and 9th.

Q I want to know what the job was that you were working on right before you were laid off.

Do you recall?

A I'm not sure.

It was probably I was working in his house.

Q You think that you were working in his house?

A It could be there or it could be in Chelsea Recreation Center.

Q You don't know, do you?

A At this moment, no. I have it in my notes.

Q Do you know whether you finished that project before you were laid off?

1 Angel Vargas 70

2 A In this case, you hardly finish the  
3 job because they always take you off and put  
4 somebody else.

5 You hardly never start something and  
6 finish it.

7 Q Did you finish what you were supposed  
8 to do at the job?

9 A What I was supposed to do I got, at  
10 that time, yes.

11 Q You did finish that, right?

12 A Whatever he sent me to do at that job  
13 for those hours we worked, yes.

14 Q After you finished, they told you that  
15 there was no work and they laid you off for a  
16 couple of weeks?

17 A Yes.

18 He called us to the office to have a  
19 meeting.

20 Q You were laid off at that meeting?

21 A He was telling us at that meeting,  
22 yes.

23 Q So Ilya Brodsky had a meeting.

24 Is that correct?

25 A Yes.

1 Angel Vargas 71

2 Q What did he say at the meeting?

3 A At this time I can't recall.

4 Q Was it in Midtown's office?

5 A It was Midtown's office.

6 The only thing I remember is we have a  
7 job coming in the Ninth Precinct.

8 That I remember. That is about it.

9 Q Did he say that you were laid off?

10 How did you find out that you were  
11 being laid off?

12 A That's when he took us to the office  
13 to tell us about that.

14 That now it's kind of slow. We have a  
15 big job. So I'm going to see if I can lay some of  
16 these guys off.

17 Q Did he lay off other workers that were  
18 going to start on the Ninth Precinct jobs?

19 A Yes.

20 Q Do you recall who else that he laid  
21 off?

22 A It was me, Angel.

23 Simon. I think Simon Norales.  
24 Bernardo Ramirez.

25 Q So Angel, Bernardo and Simon.



1 Angel Vargas 107

2 other than the fact that it was slow or that they

3 didn't have anything?

4 A No.

5 They gave me no reason at all.

6 Q Did you ever hear anyone at Midtown

7 make any comments about Puerto Ricans?

8 A That I know of, no.

9 Q What about Hispanics?

10 A That I know of, no.

11 Q So you also claim that Midtown hired

12 Russians in March of 2006.

13 Is that correct?

14 Or Europeans?

15 A This was when they call me back. It

16 was March.

17 I went to Con Ed and I went there and

18 I saw new faces there, yes.

19 And I see one of the guys that was

20 working the Ninth Precinct with us.

21 He was working still there.

22 Q What was the name of the guy from the

23 Ninth Precinct?

24 A I can't recall his name now.

25 Q This was the Con Edison site?

1 Angel Vargas 112

2 You have identified this one Russian  
3 guy who is at Con Ed.

4 Are there any others?

5 A I know, at this time, that's the only  
6 one that I know.

7 Q Do you know what title he had?

8 A He was doing Tin Knocker. That's duct  
9 work.

10 Q Does that make him a Sheet Metal  
11 Mechanic?

12 A Yes.

13 Working with sheet metal.

14 Q Did you file a grievance with your  
15 Union about this?

16 A At that time I wasn't in the Union.  
17 I was terminated without me knowing  
18 about it.

19 Q Did you try to file a grievance with  
20 the Union?

21 A I was terminated from the Union.  
22 Even if I tried, I didn't know  
23 anything until March.

24 When I went for a doctor appointment,  
25 I find out that we got terminated from the Union.

1 Angel Vargas 113

2 Q I want to know if you tried to file a  
3 grievance?

4 A No.  
5 We were terminated.

6 We didn't have nothing.

7 Q Did you ever try to file a grievance  
8 throughout your employment at Midtown?

9 A I don't get the question.

10 Q Did you ever try to file a grievance  
11 with your Union about Midtown at any time during  
12 your employment at Midtown?

13 A Yes.

14 We did. As a matter of fact, Simon  
15 called John and said what happened to us.

16 Q When?

17 A I can't remember. I can't recall  
18 when.

19 Q Are you talking about in March? Was  
20 this after the last layoff?

21 A Yes. Around that time.

22 After that.

23 Could be February.

24 Q This was 2006?

25 A 2006.

1 Angel Vargas 114

2 Q Simon called John, the Delegate?

3 A Yes.

4 He explained all the situation. What  
5 is going on. Why we were getting laid off.

6 Q So Simon called.

7 Did he talk to John?

8 A Yes, he did talk to him a couple of  
9 times.

10 Q Did you talk to John about this?

11 A Yes.

12 We was talking a couple of times back  
13 and forth because he tried to help me get a job.

14 After all these years with Midtown, I  
15 was there for awhile.

16 Q Did you tell John that you wanted to  
17 file a grievance with the Union?

18 A I don't get that.

19 Q Did you tell John that you wanted to  
20 make a formal complaint with the Union?

21 A We just told him what happened and  
22 that was it.

23 That's all.

24 After that we didn't hear anything.

25 Q Let's go back to Exhibit 3.

1 Angel Vargas 143

2 because I had to pick up his mother because most  
3 of the time I did a couple of times.

4 He called me to pick up his mother to  
5 take her to her appointments or something like  
6 that.

7 But I can't recall if it was that day.

8 Q Do you recall having a half day's pay  
9 deducted in September of 2005?

10 A That I can't recall, no.

11 MR. CAPOZZOLA: Mark this as  
12 Defendant's Exhibit 10.

13 (Whereupon, Letter dated November 16,  
14 2005 was marked as Defendant Vargas Exhibit  
15 10 for Identification, as of today's date.)

16 Q I'm going to hand you a document.

17 It is two pages.

18 The first page is labeled MACV00170  
19 and the second page is labeled MACV00174.

20 This was marked as Defendant Vargas  
21 Exhibit 10.

22 Have you ever seen these documents  
23 before?

24 A No.

25 Q Have you ever seen the second page?

1 Angel Vargas 144

2 Look at the second page.

3 A No.

4 This job -- no, he never gave me this.

5 Q Did you work at 143 Freedom Place  
6 project?

7 A Yes.

8 That's a doctor's office.

9 Yes, I did.

10 Q Who was the contractor?

11 A I forget his name. I worked there,  
12 yes.

13 I remember this place.

14 A Was it William Bennet?

15 A Yes.

16 That is probably him.

17 Q Do you know for sure?

18 A I'm not sure.

19 I know this job very clearly. Yes, I  
20 do.

21 Q Did anyone complain to you about the  
22 progress being made on the project?

23 A No. Nobody ever complained.

24 The only complaint we had from Midtown  
25 was bringing the material late to us.

1 Angel Vargas 145

2 Q I don't understand that last thing.

3 A When we started this job here, I  
4 remember that there was me and Ryan McKenzie.

5 Before we even started this job, Roman  
6 asked if we want to take the job on the other  
7 contract and he will pay us on the side to do this  
8 job. And we told him no.

9 Because it was a very difficult job to  
10 do that job.

11 Because I think it was over like  
12 twenty, twenty-five feet in the air to work this  
13 job.

14 And we had to put ducts on top of  
15 other ducts and high and low and we couldn't  
16 reach.

17 We had to go as high as we can and  
18 step on top of that to go up there and shoot to  
19 make holes for the hangers to hold the ducts.

20 That was a very difficult job.

21 I remember that.

22 Q But no one complained to you about the  
23 speed of your work?

24 A No.

25 Nobody told us anything.

1 Angel Vargas 146

2 Q So, as far as you know, the client was  
3 happy about your progress.

4 Is that correct?

5 A He comes there in the morning. He  
6 didn't tell us anything.

7 Q Did you finish working on that  
8 project?

9 A No.

10 He took us out and he brung one, two,  
11 three teams.

12 Me and Brian alone there and took us  
13 out and put three teams on that to finish the job.

14 Q Were these three teams employees of  
15 Midtown?

16 A No.

17 They were outsiders.

18 Q Sub-contractors?

19 A Yes.

20 Q What happened to you after this  
21 project?

22 Did you go to another job?

23 A Yes.

24 This is after this job they send Ryan  
25 home and that's when I got laid off.



1 Angel Vargas 147

2 They send me back to the Ninth  
3 Precinct.

4 MR. CAPOZZOLA: Mark this as Defendant  
5 Vargas Exhibits 11 and 12.

6 (Whereupon, Company Meeting dated  
7 2/2/06 was marked as Defendant Vargas  
8 Exhibit 11 for Identification, as of today's  
9 date.)

10 (Whereupon, Minutes of Meeting dated  
11 2/2/06 was marked as Defendant Vargas  
12 Exhibit 12 for Identification, as of today's  
13 date.)

14 Q Mr. Vargas, I'm handing you two  
15 documents, Exhibit 11, which is marked AWW000000  
16 and Exhibit 12, which is marked MACV00164.

17 Let's talk about first Exhibit 11.

18 Have you ever seen this document  
19 before?

20 A I don't quite remember this time.

21 I see my signature there.

22 Q Is that your signature to the best of  
23 your knowledge?

24 A That is my signature.

25 Q Have you ever seen this document,

1 Angel Vargas 154

2 do you know when you first saw it?

3 A It was given to us by Igor.

4 Q The third point states that on  
5 February 15, 2006, Roman visited St. Francis  
6 Hospital at 3:00 p.m. to explain the scope of this  
7 job for the following morning.

8 But Angel, Bernard and Simon had  
9 already left the site.

10 They called in at 3:36 to call out.

11 Let's stop there.

12 Do you recall working at the St.  
13 Francis Hospital?

14 A Yes, I do.

15 Q Did you leave before 3:00 on that  
16 date?

17 A We left early, yes.

18 Because we didn't have no lunch.

19 That was the date that it was snowing.  
20 It was a lot of snow up on the roof and we were  
21 working on the roof at St. Francis Hospital.

22 Q Did you call in at 3:36 to call out?

23 A I can't recall at this time.

24 But I don't think it was at that time  
25 that we called in.

1 Angel Vargas 155

2 Because we always had to call in.

3 Q Did you request permission to leave  
4 early?

5 A No, we don't have no lunch that day.

6 Like I said, it was snowing and we  
7 were working on the roof.

8 Q Aren't employees supposed to have  
9 lunch under your Union Contract?

10 A Lot's of times, even the Supervisor  
11 says if he can finish the work, we wanted to  
12 finish it.

13 Q Do you recall what time that you  
14 showed up at work that day?

15 A This here?

16 Q Yes.

17 A For this here, we used to go by  
18 Simon's house.

19 I was living in New Jersey.

20 It was hard for me to come from there  
21 to go to Long Island.

22 I used to leave out of my house about  
23 4:30 in the morning to go to Simon. Go in his car  
24 and he used to drive us over there.

25 Drive us three in the car and we used

1 Angel Vargas 156  
2 to get over there. We used to get there like five  
3 to 7:00 or ten to 7:00 whatever.  
4 That's the time that we would get  
5 there.  
6 Q Do you recall what time that you were  
7 supposed to start working?  
8 A 7:00.  
9 Q Why didn't you call in at the time  
10 that you left that day?  
11 A Why we didn't call you said?  
12 Q Yes.  
13 A We called.  
14 Q But, did you call at the time you left  
15 or did you call after?  
16 A No.  
17 We called the time when we got into  
18 the car.  
19 Q How long did it take you to get into  
20 the car from where you were working?  
21 A By the time we pack up and everything  
22 and leave, ten or fifteen minutes. 3:15.  
23 Could be something like that.  
24 At this time I can't recall anyway.  
25 Q Did you talk to any of your

1 Angel Vargas 183

2 Q Did you ever have any other  
3 conversation with Alex about this?

4 A No.

5 Q Were you involved in the investigation  
6 of your Complaint after you filed it in June or  
7 July?

8 MR. WOTORSON: Objection to the form.

9 A I don't understand.

10 Q Did you ever attend any hearings with  
11 Midtown and the New York City Comptroller's Office  
12 regarding your Complaint?

13 A No.

14 Q Do you know how your complaint was  
15 resolved?

16 MR. WOTORSON: Objection to the form.

17 A By filing the application.

18 Q Do you know whether Midtown settled  
19 with the Comptroller's Office?

20 A For the Ninth Precinct only. Yes.

21 Q How do you know that they settled?

22 How do you know that Midtown settled?

23 A Because of the letter they sent, which  
24 it wasn't Midtown.

25 It was KBF that settled.

1 Angel Vargas 184

2 Q Who sent you the letter?

3 A The Comptroller's Office.

4 Q Do you recall when the letter was  
5 sent?

6 A The amount of money, how much for the  
7 Ninth Precinct.

8 I believe. I have it.

9 I don't know. But he has the other  
10 information. I gave it to him.

11 Q Do you believe that you still have a  
12 copy of that letter?

13 A I have it, yes.

14 I have a copy of the letter.

15 It tells you the amount and what they  
16 gave it for. The one they gave it for. The Ninth  
17 Precinct job.

18 Q Did you used to leave your job early?

19 A On occasion.

20 Q Did you ever leave your job before?

21 I'm talking about at Midtown, before  
22 you were supposed to leave?

23 A Sometimes I did.

24 When I had to do errands for Ilya.

25 Because sometimes I had to cross the

1 Angel Vargas 186

2 for him.

3 Because certain times I had to be  
4 there, certain times.

5 Q So my question was, not once -- you  
6 were never late once to go to work?

7 A No.

8 To my recollection, no.

9 Q Did Mr. Brodsky ever talk to you about  
10 your E-Z Pass records?

11 A No.

12 Q Did you have a claim for prevailing  
13 wages against Midtown as part of this lawsuit?

14 A With the City?

15 Q No.

16 Are you claiming that Midtown owes you  
17 prevailing wages?

18 A From way back, yes.

19 Q That you think that they still owe  
20 you, correct?

21 A Oh, yes.

22 Q What project do you believe that  
23 you're entitled to prevailing wages from?

24 A The one at the recreation center. I  
25 was a couple of years in there.

1 Angel Vargas 187

2 Q Where else?

3 A Also working on rehabilitation of  
4 Engine Company 93.

5 Q Anything else?

6 A There are some more.  
7 Shea Stadium, but that belongs to the  
8 Park.

9 Q Anything else?

10 A That's about it.

11 Q How much do you believe that you're  
12 owed for the Chelsea Rec Center?

13 A I have no idea.

14 Q How much do you believe that you're  
15 owed for Engine Company 93?

16 A I have no idea.

17 Q How about for the Shea Stadium?

18 A No idea.

19 Q Did you tell the Department of Labor  
20 that you wanted to collect prevailing wages for  
21 any of these three projects?

22 A At that time, no.

23 Q I meant the Comptroller's Office.

24 You understood what I meant?

25 A The Comptroller's Office, at that



1 Angel Vargas 188

2 time, no.

3 Because we just did it with the Ninth  
4 Precinct.

5 Q Did they tell you that they were not  
6 interested in pursuing those?

7 A No.

8 They said they were, but they couldn't  
9 go back three years.

10 It was something like that.

11 The Comptroller said.

12 Q Did they tell you those other claims  
13 were too old?

14 A No.

15 Her name -- she said if I wanted to  
16 claim those other ones, I have to get myself a  
17 lawyer.

18 Q Did she explain what she meant?

19 A Yes.

20 Because after three years, they only  
21 could help you with what they have right now.

22 But past three years ago, they can't  
23 do anything.

24 You have to go through a lawyer to get  
25 the rest.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Angel Vargas

189

Q Do you have any documents relating to the work that you performed on the Chelsea Rec Center?

A Yes.  
My pay stubs.

Q Anything else?

A And I used to sign the books over there also sometimes.

Q Anything else?

A That I can remember at this time?  
That is all.

Q Would your pay stubs show where you were working?

A No.

Q During that period, were you still being bounced around from project to project?

A The Chelsea job was very, very big, big job.

That was over \$20 million job. And we had -- everybody was working there. All of the Tin Knockers.

Everybody was there for a good year straight.

Q Do you have any documents relating to

190

Engine Company 93 project?

A No.

Q Other than your pay stubs?

A Other than the pay stubs.

Q How about Shea Stadium?

A I think I do have -- I did that.

I used to go there. You had to show

1 D .

They take your picture and everything

a t S h e a S t a d i u m .

Q Anything else?

A No.

Q Your pay stubs, of course?

A Yes.

Q But nothing else besides that?

A     Nothing else besides that.

Q Are you claiming that you have

suffered emotional distress damages as a result of anything done by Midtown?

A I don't get you by that.

Q Have you suffered any emotional distress damages?

A      The only thing I can say is I am mad  
for what he did.

1

Angel Vargas

226

me.2

3

Q How about Bernardo Ramirez?

4

A Yes.

5

Q Did you ever have any other

6

conversations with Ilya about this?

7

A Like I said that day in the basement.

8

That's the only time I told him.

9

Q Did you ever make it clear that you

10

believed there was a racial division between --

11

A -- yes, there was. Yes.

12

Q What did you say?

13

A Yes, there was racial.

14

MR. WOTORSON: He asked you if you

15

ever made it clear or explicit?

16

Did you ever use those kinds of words?

17

THE WITNESS: If I used those kinds of

18

words?

19

I just mentioned it. But never to

20

Ilya.

21

I mentioned it to Igor and the Shop

22

Steward.

23

Q You never said it to Ilya, right?

24

A No.

25

Never said it to Ilya.

1 Angel Vargas 227

2 Q So we're talking about all the  
3 conversations with Ilya now that you had about  
4 that topic?

5 A Yes.

6 I told him why are these guys getting  
7 paid more than me?

8 I never told him it was a racial  
9 issue. I told the other guys.

10 Q Let's talk about your conversation  
11 with Alex now.

12 How many conversations did you have  
13 about this?

14 A Which Alex are you talking about?

15 Q About the Shop Steward.

16 A Wherever we were working together, we  
17 sit down and we talk about it in the truck.

18 We had a lot of conversations and we  
19 talk about it.

20 Q Did you tell Alex that you believed  
21 that the Whites or the Russians or the Europeans  
22 were getting paid more?

23 A You could say yes.

24 I told him why you guys are getting  
25 paid more than me?